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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,721	01/21/2002	James P. Dietrich	DIET-003	4221

7590 09/29/2003
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EXAMINER

GIBSON, RANDY W

ART UNIT PAPER NUMBER

2841

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,721

Applicant(s)

DIETRICH, JAMES P.

Examiner

Randy W. Gibson

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,9-11,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-8 and 12-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "42" has been used to designate both "control unit" (Figure 2) and one of the "support members" (Figure 3). The written description states that the "support members" should be labeled "72" not "42". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pivotal attachment of the support members 72 to the first member 70 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 9, 10, 11, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jost (U.S. 5,119,893) in view of Schneider (FR 2,129,807). Jost disclose a conveyor belt scale system including a load cell connected to an upper roller (Col. 3, lines 61-66), a velocity sensor (Col. 4, lines 1-6), and a controller (8) for determining weight after compensating for the pre-measured tare weight of a specific section of the belt (Col. 4, lines 22-55). Jost discloses the claimed invention except for the second load cell connected to a lower roller which gives tare weight of a belt section in real time. Schneider shows just such an arrangement (Figure 1); the arrangement show in Schneider would have to obvious advantage of eliminating the need for a calibration run of the empty belt prior to start-up as required by Jost - thus saving time. It would have been obvious to the ordinary practioner to modify Jost to include a second load cell connected to a lower roller which to give tare weight of a belt section in real time, as taught by Schneider, to eliminate the need for a calibration run prior to start-up.

5. Claims 1, 9, 10, 11, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ludescher (U.S. # 6,437,255 B1) in view of Schneider (FR

2,129,807). Ludescher disclose a conveyor belt scale system including a load cell connected to an upper roller (Col. 3, lines 4-20), a tare measuring load cell (Col. 3, lines 21-35) a velocity sensor (Col. 3, lines 40-56), and a controller (Col. 4, line 23 to col. 5, line 19). Ludescher disclose the claimed invention except his tare measuring load cell is located at an upper side of the belt instead of at a lower side of the belt. Schneider shows that locating the tare measuring load cell at the underside of the belt is an know equivalent structure. It would have been obvious to relocate the tare load of Ludescher to the underside of the belt, as shown by Schneider, since this is a known equivalent structure.

Conclusion

6. Claims 2-8 and 12-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

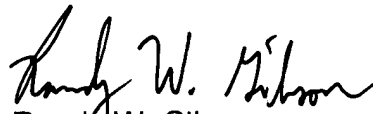
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Linville, Jr. et al. (Fig. 5), MacFarlane (Fig. 1), and Kemp (Fig. 3) show weighing arrangements similar to the applicant's claimed device. Häfner shows a weighing method similar to applicant's claimed method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.


Randy W. Gibson
Primary Examiner
Art Unit 2841
